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LEASEHOLD ENFRANCHISEMENT





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LEASEHOLD ENFRANCHISEMENT.

BY

ARTHUR UNDERHILL, M.A., LL.D.,

OF LINCOLN'S INN, BARRISTER-AT-LAW,

Late Lecturer on Equity to the Incorporated Law Society; and

Author of Treatises on "The Law of Private Trusts,"

"The Settled Land Acts," "Freedom of Land," &c. &c.

"GOLDEN UNCONTROLLED ENFRANCHISEMENT!"

RICH. II. i. 3.

PROPERTY PROTECTION SOCIETY

45, PARLIAMENT STREET

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CASSELL & COMPANY, LIMITED:

LONDON, PARIS, NEW YORK & MELBOURNE.

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ABRIL 70 M
23 JUN 2017

PREFACE.

A LEADING ARTICLE on the subject of Leasehold Enfranchisement appeared in *The Times* of the 15th inst., founded on a "Statement on the questions referred to the Select Committee on Town Holdings." That "Statement" has, however, never been issued to the public (as assumed by *The Times*), but was prepared as a digest of the arguments and evidence relied on by those who opposed the schemes foreshadowed in the questions referred to the Committee. *The Times* leader has, however, aroused so much interest in the matter, that I have thought it might be acceptable were I to put together, in a more concise and handy form, the main facts and arguments in relation to Leasehold Enfranchisement contained in the Statement above mentioned, together with some few other considerations which have occurred to me during the considerable period in which I have been studying and working on this important subject. Since the following pages have been in type, Parliament has met, and Col. Nolan has given notice of a motion to reappoint the Select Committee on Town Holdings. Notices have also been given by Mr. Lawson and Col. Hughes of Bills to enable leaseholders to acquire the freehold of their property by paying compensation or (at the option of the freeholder) a perpetual rent. This is a modification of the former Leasehold Enfranchisement scheme, but does not materially affect the arguments adduced in this pamphlet.

A. U.

8, Old Square, Lincoln's Inn,
January, 1887.

1887. 1887.

LEASEHOLD ENFRANCHISEMENT.

FOR some time past, an agitation has been in progress with regard to town holdings, and has so far succeeded, that in the month of March, 1886, a Select Committee of the House of Commons was appointed, under the presidency of Mr. Goschen, to inquire into the subject. The Committee was directed to make three inquiries, viz. (1) An inquiry into the terms of occupation and the compensation for improvements possessed by the occupiers of town houses and holdings in Great Britain and Ireland; (2) An inquiry into the question of imposing a direct assessment on the owners of increased values imparted to land by building operations or other improvements; and (3) An inquiry into the expediency of giving to leaseholders facilities for the purchase of the fee-simple of their property.

Question
has been
referred to
Committee
on Town
Holdings.

To a mere lawyer, who takes only a languid interest in politics, the lightheartedness with which these three great questions were pitched at the head of the Committee is somewhat amusing. For great questions they undoubtedly are, affecting large classes of Her Majesty's subjects, and threatening alterations in the law which, if carried out, would affect property to the extent of many hundreds of millions of pounds sterling.

But although the haste of those who have procured the appointment of a Select Committee on Town Holdings

“Expecting all things in an hour”

is amusing, it is very desirable that no rash legislation

should be attempted, and that whatever view may ultimately be adopted by Parliament, the question of town holdings should be thoroughly thrashed out.

Holding that view, I consider that however irksome may be the duty, a duty is nevertheless cast on those whose avocations necessarily give them a practical acquaintance with the subject to do their best to make the matter clear to those who will have to vote upon it. I confess that I have undertaken that duty with some reluctance, because I well know that the would-be reformers will hold me up to public reprobation as a narrow, technical, and not altogether unselfish lawyer, for that is the stock argument of all persons who desire to minimise the effect of legal criticism.

It is not for me to decry their intelligence in adopting such a method of controversy, but I do say that the reasons which they allege against professional criticism, viz., that it is prejudiced by the fear that legal profits will be decreased, is founded on an entire misconception.

If any sweeping change in our land laws were made, it is certain that it would create for the present generation of real property lawyers a large increase of business, and we are not so unpractical a class as to concern ourselves overmuch with the prospects of our professional successors.

A radical change in an extensive field of law cannot be brought about without affecting the rights of many persons ; and in the clash of conflicting interests lawyers are not likely to find lack of work. Every new statute requires judicial interpretation, for Parliamentary wisdom does not usually manifest itself in perspicuous diction, and so far as I know the Legislature has never yet succeeded in giving birth to an Act which is free from ambiguity.

I venture, therefore, in spite of the objection to legal comment, which I foresee, to handle the third and last

of the questions which were referred for inquiry and report to the Select Committee on Town Holdings. The resolution of the House, with much *naïveté*, refers to the Committee "the question of the expediency of giving to leaseholders *facilities* for the purchase of the fee-simple of *their* property;" but in reality the question referred is the expediency of giving to leaseholders compulsory powers of purchasing, at the market price of the day, and without compensation for severance or forced sale, the fee-simple of the property of their landlords. It is this question which is popularly known as "Leasehold Enfranchisement."

The sudden dissolution of Parliament in June last prevented the Select Committee from concluding their inquiries, and making their final report; but they reported the evidence already taken before them to the House, and recommended the appointment of another Committee, with the same objects, in the new Parliament.

Committee
did not
finish their
labours
before the
dissolution.

Although the evidence taken by the Committee forms a bulky volume, it mainly relates to the question of town holdings in Ireland, a phase of the question with which I do not propose to deal: and the English case was only just opened by the evidence of Mr. Ryde, formerly President of the Surveyors' Institute, in favour of the existing law, and by that of Mr. Charles Harrison, solicitor, in favour of the changes advocated by the reformers. The evidence of these two gentlemen fairly represents the respective views of the opponents and advocates of the proposed reform; but it is well known that, if the Committee had not come to a premature end, a large number of witnesses would have been called, including, on behalf of the opponents, representatives of great estate-agents, surveyors in London, Birmingham, Liverpool, Manchester, Newcastle-on-Tyne, Preston, South-

port, and Swansea, and several of the managers of Industrial Dwellings Associations whose property has been built on the leasehold system.

The question of giving to leaseholders *facilities* for the purchase of the fee-simple of their properties was first reduced into the form of a Bill in the year 1883, and in the following year no less than three Bills were introduced into the House of Commons in relation to the subject.

Of these, what may be called the official Bill of the reformers was introduced by Mr. Broadhurst, M.P.; and as this Bill has been publicly advocated in a small work by Mr. Broadhurst, M.P., and Mr. R. T. Reid, M.P., Q.C., it may be assumed that these gentlemen have there stated all the arguments which can have any weight in favour of their bantling.

Now, in effect, Mr. Broadhurst's Bill provides that any holder of a lease of any building, the grounds connected with which do not exceed three acres, and having an unexpired term of more than twenty years, and in certain cases any holder of a lease for lives, may compulsorily purchase the freehold reversion (that is, in plain English, the beneficial interest of his landlord) at a price to be fixed by the County Court judge of the district, sitting either with or without a jury; such price to be assessed on the basis of what it would fetch in the open market *without any compensation being made to the landlord for forced sale*. The Bill also prohibits landlords and tenants contracting themselves out of its provisions.

Such legislation is, to say the least, of a very unusual nature. As a matter of fact, it is wholly unprecedented in this division of the United Kingdom, for although, under the Artisans' Dwellings Acts, landlords may be

Bills in
favour of
Leasehold
Enfranchisement.

Mr. Broadhurst's Bill
officially
adopted by
reformers.

Unprecedented character of
Mr. Broadhurst's Bill.

compulsorily expropriated without compensation for forced sale, those Acts only apply to properties where sanitary regulations have been utterly neglected, and only then when it is for the *public* advantage that the land should be acquired by the *local authority*. The Leasehold Enfranchisers, on the other hand, propose to expropriate landlords who may have in every respect done their duty by the public, their property, and their tenants, and to expropriate them, not for the benefit of the community, but for the sole behoof of tenants who got possession of the property under a distinct and solemn covenant that on the expiration of the term granted by their lease they would quietly deliver it up to their landlord.

A more open violation of the principle of the sanctity of contracts, of the honest performance of obligations solemnly undertaken, has, I think, seldom been advocated by serious politicians, in England at least. That the performance of obligations may be dispensed with by Parliament it would be absurd to deny. *Salus Republicæ suprema lex*, and one can imagine cases of exceptional hardship where the legislature might reasonably step in *ex post facto* to modify the terms of a bargain. But here it is proposed to give to a whole class the right to compulsorily purchase the property of their neighbours, at their own time and at their own convenience, at that state of the house market which suits them best, and at the market price of the day.

I have heard it said that if we have Copyhold Enfranchisement why not also have Leasehold Enfranchisement? There is, however, no analogy. For the interest of the lord of the manor in the copyhold lands is, practically, only pecuniary. He has no real reversion in the land itself.

Copyhold
Enfranchisement
is no precedent.

Magnitude
of the
interests
involved

Moreover, the interests which would be affected are vast in the extreme. It has been computed that in 17 towns in Lancashire (exclusive of Liverpool and Manchester) the value of property subject to building leases amounts to over 50 millions sterling. If we consider that nearly all London and a great part of Liverpool and Birmingham are built under the leasehold system, it will be seen that the Bill would affect property worth at least many hundreds of millions sterling.

A right so extraordinary, so unsupported by precedent, and affecting vested interests of such immense importance, ought surely not to be conferred, save for the strongest reasons. Do such reasons exist? I contend not, and I propose, in the first place, to examine the arguments put forward in favour of the Bill by its promoters, and then, having shown the entire fallacy of some of them, and the inconclusive nature of others, I shall adduce some very cogent reasons why the Bill would inflict the gravest injustice on landlords, and would, so far from being beneficial to the public, prove injurious to its best interests.

I.—THE REASONS IN FAVOUR OF THE BILL EXAMINED.

Summary
of Messrs.
Broadhurst
and Reid's
arguments
in favour of
their Bill.

The following is, I think, a fair summary of the arguments advanced by Messrs. Broadhurst and Reid. According to them all leaseholds, with the exception of very short terms (which, however, they do not define), are extremely prejudicial from a public point of view. They contend that it ought to be the direct pecuniary interest of some one, that every house in England should be kept in proper condition; that, if any house becomes too old to be habitable, there ought, in every case, to be

some person whose pecuniary interest would be served by having it re-erected so as to be habitable; and they say that when the ownership of a house is divided, so that the fee-simple proprietor has only a reversionary interest, and the leasehold proprietor has only a temporary interest, there is no sufficient inducement to either party to keep the house in that state in which it ought to be kept.

It is further contended that the system of building leases is radically inequitable, inasmuch as the lessor or those claiming under him, on the termination of the lease, step into a property the capital value of which has been increased, not by any expenditure or any care on their part, but exclusively by reason of the expenditure and thrift of the lessee. It is also alleged that it enables landlords to force upon tenants unconscientious and exorbitant terms, more particularly where an old-established business has been carried on upon leasehold premises, which business, although in no way built up by the landlord, has imparted a fictitious value to the premises which give him the opportunity of wringing from the tenant a largely-increased rent, or, in the alternative, of refusing to renew his lease. A still more serious allegation of the reformers is, that the system of building leases is one of the main causes of the many evils connected with overcrowding, insanitary buildings, and excessive rents in relation to artisans' dwellings. In short, the alleged evil effects of the system are summarised by Messrs. Broadhurst and Reid as follows :—

(1) It causes houses to be cheaply and ill built, because they ultimately become the property of a person who does not build them.

(2) For the same reason, it prevents old houses

being pulled down and new houses being put in their place.

(3) That, accordingly, it condemns many persons to live in houses which are not fit for their habitation.

(4) It makes occupiers grudge repairs, for the same reason that they grudge to rebuild.

(5) It conveys to one man the fruits of the outlay of another.

(6) It lays whole towns and villages at the mercy of one or two men, who can wholly prevent, or impose any terms they please on, the building of new houses.

(7) It perpetuates, for a long period, any restrictions, however unreasonable, which may have been imposed years ago on the use and enjoyment of a house.

(8) It deprives men of that incentive to industry and thrift which is afforded by a prospect of acquiring a house really their own.

(9) It confers upon the landlord a degree of authority and a right of interference in regard to the homes of the people which is unendurable in a free country.

Objections
all relate to
building
leases.

It will be seen that all these charges relate to bricks and mortar—that, in short, the reformers do not object to leaseholds *per se*, but to the *leasehold building system*, *i.e.*, the system under which land is hired for a long term at a low rent, on the condition that when the term has expired the landlord shall be entitled to receive back the land covered with houses of a specific quality.

Various
systems
under
which
building
land is
developed.

In order that the reader may be able to appreciate the arguments for and against this system, it is desirable that a short account should be given of it, and also of the other systems under which building land is developed in this country, *viz.*, the freehold purchase system, and the freehold chief rent system.

The leasehold system of building may be subdivided into leaseholds for a term of years certain, and leaseholds for a term of lives (usually three). The latter is now rapidly dying out, but the former prevails almost universally in London, and to a very large extent in Liverpool, Birmingham, Brighton, Eastbourne, and many other important towns. Let us then examine the nature of the leasehold system for a term of years.

The reader must not, however, imagine that land is, except in the rarest instances, let on building lease to a private individual for the purpose of building his own residence. That is not done in one out of 500 cases. What happens in the odd 499 is that an entire estate is developed *en bloc* by a professional building speculator, not under one building *lease* but under a building *agreement*. By this agreement it is provided that the builder may enter on the landlord's land, and, under the supervision of the landlord's surveyor, erect a specified number of houses of a specified character. In order to recoup the builder his outlay with profit, the landlord agrees that he will, as the houses are completed, grant leases of them to the builder or his nominees, for a term varying in different localities from 99 to 72 years (or in exceptional cases, where land is very valuable, for shorter terms), at a ground rent for the entire estate. This ground rent is usually about one-sixth of the rack rent of the houses when built, and the agreement provides that it shall be distributed among the different houses as may be afterwards agreed. The form which each lease is to take is usually appended by way of schedule to the agreement, and contains various restrictive covenants, *i.e.*, covenants restricting the user of each house, so as to prohibit a residential estate being spoiled by the incursion of a manufactory or trade which might cause a nuisance to the

The leasehold building system described.

A building agreement always precedes the leases, which are only granted after the building is completed.

residents and the like, and also covenants by the lessee to pay rent, rates, and taxes. Usually, during the building operations, the rent is nominal, so as to safeguard the builder from paying rent until he himself begins to receive some profit from the estate. Sometimes the landlord agrees to construct roads and sewers, and in that case the ground rent is usually larger than when the builder agrees to make them.

Net result
of a build-
ing agree-
ment under
leasehold
system.

The net result of a building agreement under the leasehold system is, in fact, this. The landlord, on his part, agrees to forego the natural increment of value on his land for the whole term of the lease, in consideration of receiving a low rent well secured, and of getting back his land at the expiration of the term greatly increased in value. The builder, on the other hand, agrees to cover the landlord's land with houses, in consideration of having the exclusive use of the houses so built and of the land supporting them for the term of the lease at a low rent.

The
freehold
purchase
building
system
described.

The freehold purchase system of developing a building estate is not so simple as its name might lead the inexperienced to conclude. It is rarely that the builder simply purchases the land out and out, and thus becomes the unfettered proprietor. Very generally a freeholder who wishes to sell his property for building purposes finds it necessary in the first place to construct roads and sewers in order to induce builders to look at it. Few builders find it convenient to purchase freehold building estates *en bloc*. That would lock up capital at a low rate of interest which they want to turn over at a high rate in bricks and mortar.

Freeholder
usually
makes
roads, &c.

Freehold
building
not gener-
ally *en bloc*,
but in plots.

Freehold building estates are therefore usually sold in plots, and intricate arrangements are thus rendered necessary in relation to roads and sewers. Moreover, for the same reason (or if the landowner retains adjoin-

ing land), restrictive covenants are necessary in order that the buyer of one plot may not irretrievably injure the entire estate by the erection of mean dwellings or manufactories, or shops of a low character.

Very generally, too, the builder, unwilling to lock up more capital than is absolutely necessary, stipulates that the greater part of the purchase-money shall remain on mortgage of the land; and if, after this, he requires (as he very generally does require) to borrow further sums for actual building, he has to borrow it on second mortgage, which, being a risky security, necessitates the payment of a large rate of interest.

Freehold builder has usually to mortgage.

In practice, therefore, under the freehold purchase system the builder is not the free and unfettered owner of the land, but is subject to the restrictive covenants entered into with the landowner, and to one or two mortgagees.

Freehold builder not free and unfettered as supposed.

But, it may be said, what about landowners who build on their own land? The answer is that, as a matter of fact, landowners scarcely ever develop their land as a building estate. Of course, I do not mean to say that a landowner does not frequently build himself a dwelling-house for his private habitation; but landowners rarely have the knowledge, the capital, or the desire to enter into a building speculation.

Land-owners rarely engage in building speculations.

Building is, in truth, a trade of itself, requiring a technical education of a somewhat elaborate character, and any amateur who rushes into it is more than likely to prove the truth of the proverb that "fools build houses for wise men to live in."

The freehold chief rent system of building is the same as the freehold purchase system, with the exception that, instead of receiving a lump sum for the purchase of the land, the landowner reserves a perpetual chief rent,

The freehold chief rent system of building described.

or rent charge. Very frequently, however, the purchaser at a chief rent forms the roads and sewers, and then sells to another builder at an *improved* chief rent. Thus two or more chief rents become secured on the same property, and each chief rent being dealt with as a substantive property, the title becomes greatly complicated.

Objection
to this
system.

The great objection to perpetual chief rents is that, on property becoming depreciated, the rent imperceptibly gets to bear a comparatively high proportion to the rack rent, and the owners of the land then inevitably grumble at the burden, and cry out for *ex parte* legislation releasing them from their bargains.

Examina-
tion of
Messrs.
Broadhurst
and Reid's
arguments.

And now, having given a sketch of the various building systems, I propose to examine seriatim the arguments of Messrs. Broadhurst and Reid against the leasehold building system, as compared with the two freehold systems.

Leasehold
system does
not, as
alleged, en-
courage
jerry build-
ing.

One of the chief reasons against the leasehold building system put forward by those who support the Leasehold Enfranchisement Bill is, that it causes houses to be cheaply and ill built, because they ultimately become the property of a person who does not build them. Now this argument sounds at first hearing very specious; but the fact that it is seriously pressed and relied on by Messrs. Broadhurst and Reid shows a want of practical acquaintance with the practice of the building trade not altogether excusable. Its entire force, in fact, rests on the assumption that builders develop estates in order to keep them; whereas, as a matter of fact, a builder undertakes the development of an estate, not to keep it as an income-bearing *investment*, but in order to sell it as quickly as possible as a *commodity*, so as to get back his capital, with a reasonable rate of profit. He is, in fact, a house-manufacturer; and it is as immaterial to him that in

Builders,
whether
freehold or
leasehold,
build for
sale and
not for in-
vestment.

ninety-nine years the house must return to the lessor's successors as it is to a timber-merchant that, in a limited period, the timber which he sells will in course of time become rotten and worm-eaten.

He builds in order that he may sell ; and in order that he may find a purchaser he must supply a good article. The purchaser, on the other hand, buys a leasehold house without so much expenditure of capital as he would do were he buying a freehold, inasmuch as in the latter case he would have to add to the value of the house a further sum equal to about thirty years' purchase of the site. What he purchases is really the use for ninety-nine years, at a trivial ground-rent, of a good house. By not being obliged to lock up capital in the site at 3 per cent., he makes 6 or 7 per cent. out of the occupation-rent of a leasehold house, where he would make less than 5 out of a freehold one of precisely the same character.

Purchasers insist on as good a house under leasehold system as under a freehold.

That this is so is evident from the evidence of Mr. Ryde, given before the Committee of 1886.*

But in addition to the foregoing considerations, Messrs. Broadhurst and Reid ignore the fact that the builder, under the leasehold system, is not allowed to run up "jerry" structures at his own sweet will. Apart from the provisions of the Metropolitan Building Acts, and local statutes of a similar character in force in all the great towns of England, the builder is subject to two checks. In the first place, his building *agreement* binds him to build a house under the superintendence and to the satisfaction of the landlord's surveyor. The freeholder, therefore, has quite as much to say to the efficient building of the house as the builder has ; and it must be remembered that the lease is not granted until the house

The lessor's surveyor superintends the building, and insists on good work before granting the lease

* See question 7875, *et seq.*

is built. The builder, therefore, does not build for himself alone, but for *himself and the landlord*, under a quasi-partnership as to the enjoyment of the profits. The landlord insists upon a good house being built, because on its goodness depends the security of his ground rent.

As Mr. Ryde puts it in his evidence (8106)—“The control which the freeholder has over the lessee is something in addition to the parochial authority or the public authority, and whatever that control amounts to, it is something that the freeholder, building himself, is not subject to.”

There is this further important consideration to be borne in mind. If the lease is the usual long lease, the interest of the lessee far outlasts his own life and probably that of his children, and as men are constructed, they do not carry caution to such a height as to starve expenditure on a property which will cease to be theirs in 80 or 90 years. If, on the other hand, the term be a short term (as sometimes happens in the re-erection of City offices, where the value of the site bears a large proportion to the value of the bricks and mortar), then the landlord may be trusted to see that the builder does his work efficiently.

Examples
of first-class
leasehold
buildings.

Moreover, as a matter of fact, the best buildings in London, Birmingham, Liverpool, and other large towns are built on the leasehold system. For example, Grosvenor, Berkeley, Eaton, and Belgrave Squares, Regent Street, Oxford Street, Piccadilly, and Cromwell Road, are built almost entirely on the leasehold system.

The lease-
hold system
does not,
as alleged,
encourage
dilapidations.

The second, third, and fourth arguments of the reformers are, in effect, branches of one allegation, viz., that because the houses built on the leasehold system ultimately become the property of the landlord, that fact prevents old houses being pulled down and rebuilt, or

even repaired, and thus condemns persons to live in houses unfit for habitation.

Now, with regard to this, it is clear, I think, that Messrs. Broadhurst and Reid confine themselves to what is called artisan property. It is not to be supposed that they refer to the houses of the middle and upper classes, for the simple reason that a lessee of house property in good neighbourhoods would never get a tenant either for a worn-out house or a house in a state of disrepair. Such tenants do not care two straws whether their landlord is a freeholder or a leaseholder. They will offer the same rent to and demand the same accommodation from one as from the other ; and if a lessee does not afford what they demand, his house will remain void.

The allegation can only refer to artisan property.

But with regard to artisan property, the case is, unfortunately, somewhat different. In the first place, an artisan must live within convenient distance of his daily work. His choice is limited by that consideration alone very materially, and that gives owners of artisan dwellings a decided pull over their tenants. The demand, in short, exceeds the supply. In the next place, artisan property is not a desirable investment. The better class of investors in house property will not touch it. The collection of the weekly rents, the continual necessity of evicting tenants who will not or cannot pay, the difficulty in preventing injury to the property, all these things make the management of such property unpleasant, and, consequently, it has fallen into the hands of men who look to make a high rate of profit, and who manage the property personally. Where the house is built on the freehold system such men are the freeholders. Where it is built on the leasehold system they are often called middlemen.

Case of artisan property is bad both under freehold and leasehold systems.

A freehold owner of artisan property not so likely to repair as a lessee.

Artisans can rarely be the owners of their own houses.

Neither freeholder nor leaseholder of artisan property will spend more than he is absolutely obliged in order to get tenants.

Leaseholders have the lessor's surveyor to keep them up to their duty.

Now the question to be considered is whether a freehold owner of artisan property is more likely to keep it in good repair and condition than the middleman, or owner of a similar class of leasehold dwellings. For it *will* be the middleman and not the artisan occupier who will become the freeholder. That this is so is quite plain from the fact that the right to enfranchise is only to be incident to a *lessee of a term exceeding 20 years*, and I have yet to learn that it is the custom of artisans to take a long or, indeed, any lease of their dwellings. Their tenure, in fact, is almost exclusively weekly.

The question, therefore, as I said before, is whether a leasehold middleman, were he converted into a freehold owner, would be more likely to keep his property decently than he is now accustomed to do. What does theory say to this, and what does experience teach us?

In theory, both freehold owner and middleman are not likely to spend more money on their properties than is absolutely necessary to obtain the usual class of tenants. If they spend less than that amount, in either case they will be losers; but the leaseholder will be the greater loser, because he will still have to pay his ground rent, while his property is untenanted, and his interest in it daily diminishing.

Moreover, in the case of the middleman, the agent of the ground landlord (freeholder) is always holding the whip over him, and will not permit him to break his covenants and allow the property to get into disrepair.

The promoters of Leasehold Enfranchisement dwell on the inducements to a freehold owner to keep his property in repair, and draw a pretty idyllic picture of the oppressed but apparently fraudulent lessee who will not do his duty because it does not pay him to do so; but they ignore the fact that in the case

of leasehold properties there is a freehold owner in the background, whose interest it is to insist on the leaseholder keeping the property in repair ; and that as he can insist on this being done at the expense of the lessee, a freeholder in reversion is much more likely to see that the property is kept in repair than a freeholder in possession who would have to pay for the repairs out of his own pocket.

No doubt in a few old leases the covenants were so badly drafted that dilapidations cannot be prevented ; but now that the system is so thoroughly perfected and understood leases are so carefully drawn as to render it almost impossible for lessees to avoid their duties.

So much for theory. What does experience teach us on this point ? Particulars of houses taken from official returns of the Metropolitan Board of Works show that of 2,581 houses condemned as "insanitary," 1,126 were freehold and 1,355 leasehold.

Experience of Met. Bd. confirms this.

Now leaseholds in London are seven times as numerous as freeholds, and yet we find that there were nearly as many dilapidated freeholds as leaseholds. If the reformers were right in their contention, there ought to have been more than 7,882 insanitary leaseholds to balance the 1,126 freeholds, a fact which speaks volumes.

Examples of freehold and leasehold buildings in same neighbourhood.

Another example is the now demolished district called Bedfordbury in St. Martin's Parish, and the neighbouring Bedford Street. Both were created out of pasture land between 1620 and 1630. Bedfordbury was built on the freehold system, and Bedford Street on the leasehold. Freehold Bedfordbury began with shanties and alleys, and continued to deteriorate until it became a public nuisance, and was swept away eight or ten years ago at an immense cost to the ratepayers under the provisions of the Artisans' Dwellings Act. Leasehold Bedford Street, on the other hand, was

well planned, and has from time to time been rebuilt as the leases fell in, and is still one of the best built streets in London.

The district south of Oxford Street, between crown Street and Poland Street, embracing the north side of Broad Street, Edward Street, the east side of Wardour Street, Compton Street, and the north side of King Street, is all freehold, and a more shabby, worn-out, and dilapidated district it would be difficult to find.

Compare this with the Portland Marylebone leasehold estate on the north side of Oxford Street, and the difference is striking in the extreme. The fact is, that not only are leaseholds well kept up during the lease, but on the leases falling in the houses are almost invariably pulled down by the landlord, and the sites let on new building leases. So far therefore from the leasehold system fostering old houses, it almost insures that a district shall be entirely rebuilt *en bloc* every 80 or 90 years. With the freehold system a district which has once fallen can never be rehabilitated, for no one can deal with it *en bloc*, and no individual owner can, with any hope of success, build a really good house in a discredited district. Is it conceivable that any freeholder in Seven Dials would have dared to erect a really good dwelling house before the clearance recently made by the Metropolitan Board? His money would have been simply pitched into the gutter, the neighbouring squalor effectually keeping away desirable tenants. But now that the site of this district has been cleared the area has become some of the best property in London. Under the leasehold system that could have been done by the lessor; under the freehold system it has had to be done by the Metropolitan Board at a huge expense to the ratepayers.

Under leasehold system neighbourhoods can be reclaimed and modernised, which is impossible with a lot of small freeholds.

Moreover, it is found that in insanitary metropolitan areas small freeholds are the plague spots which have corrupted the adjacent leaseholds.

It is also to be borne in mind that if a lessee ever is tempted to neglect repairs, that temptation comes to him in the last 10 years or so of the lease; but (1) the Bill only gives him a right to purchase the freehold when there are upwards of 20 years unexpired, and (2) a lessee under a short lease of 14 or 20 years would be just as likely to shirk repairs as the owner of the fag end of a long one. *Unless, therefore, all leases which provide for repairs being done by the tenant, however short, are made illegal, no good in this matter can be effected.*

The next argument stated by Messrs. Broadhurst and Reid is that the leasehold system gives to one man the fruits of another's industry. It is difficult to regard this argument as intended seriously. Surely, wherever a capitalist puts out his capital, whether it consists of money, of machinery, of raw materials, or of land, he is sharing the fruit of the industry of the labourers whom he employs. It may be considered by some that I am applying Jovian or Saturnian arguments to mundane affairs, but political economy is not quite dead among us, and the right of a capitalist (at all events of one who lives on this side of St George's Channel) to share the profits earned by the labour of those whom that capital employs has never yet been seriously questioned by practical politicians.

Why, then, should a landlord be debarred from enjoying a part of the fruits of the labour of the speculative builder whom he enables to make a good profit by letting him have the use of his land for a long term of years? Where is the unfairness of a bargain to the

The leasehold system does not, as alleged, give to one man the fruits of another's industry, except so far as every capitalist does so.

builder under which such industrial princes as Cubitt, Freke, and Seth Smith have made colossal fortunes? Messrs. Broadhurst and Reid are certainly not so simple as to suppose that London has been built by credulous and deluded tradesmen, who have been sacrificed to the rapacity of the great landlords, but they apparently calculate that their readers will be caught by this clap-trap, and as some persons may have been, it is as well, perhaps, to take some pains to undeceive them.

What better right has the lessee to the fee simple of the land than the lessor to the fee-simple of the houses?

In the first place, then, if it is (as assumed by the Leasehold Enfranchisers) so unfair that the landlord should have the house at the end of the lease, on what principle of natural equity (if there be any equity in nature, which is one of the increasing assumptions of flabby-minded philanthropists which is not quite so obvious as it may be thought), on what principle of equity, I say, is the housebuilder to be presented with *the land* at the end of the lease? Why should he have a prior right to the ultimate ownership of house and land rather than the owner of the land, to whom, moreover, he has solemnly, and as a condition of his being allowed to use it, covenanted to surrender it?

The builder always calculates to make as good or better profit out of leaseholds as out of freeholds.

Again, as I have said before, a builder does not build as an *investment*. He builds as a manufacturer of houses, which he forthwith endeavours to sell. We may be quite sure that he does not build to sell at a loss, and in fact if he has, like any other shrewd tradesman, calculated correctly, he sells his commodities (*i.e.*, houses) at a fair profit as soon as he can dispose of them. Where then is the unfairness to him? Whether the land be freehold or leasehold is all one to him. He would make his profit, and no more than his profit, whatever the tenure of the site may be.

But it may be said it is unfair to the purchaser, as it gives what he has *purchased* to the landlord at the expiration of the lease. Such an argument is almost too absurd to need refutation. If I pay 100 guineas for an opera box for the season, is that to give me a right of pre-emption of that box at the market price? If I purchase a life annuity, is it unfair to my children that the capital sum which I expended on the purchase of the annuity is lost to the family when I die? Is a person who buys a ship, or expensive plant, or any other commodity which wears out, treated unfairly because when that commodity has worn out he will have lost the capital which he embarked in its purchase? And if none of these things are unfair, why in the name of common sense is a man unfairly treated when he gives £1,000 for the use of a leasehold house for ninety years, or sixty years, or thirty years, or whatever the term may be. In all the cases above mentioned he is buying a wasting property, and he is buying it with his eyes open, *and he pays a price calculated on the ground of its being a wasting property.*

If this be doubted, the reader has only to walk into the first house agent's office, where he will be supplied with printed tables compiled for the very purpose of estimating the selling value of leasehold interests. If the lease is short it is generally a very profitable investment, yielding a very high rate of interest. If it be for 70 years, a sinking fund of less than a penny in the pound of capital, accumulated at 3 per cent. compound interest, will repay the capital.

Indeed, there is actually a society in existence called the "Leaseholders' Fund Corporation, Limited," the object of which is to secure to lessees the return of their capital by the yearly payment of a trifling premium. One of the examples given by this corporation in their

No more unfairness to the purchaser of leaseholds than to the purchaser of a life annuity.

Tables in existence for estimating the value of leaseholds.

prospectuses is also an excellent example of the folly of the "injustice" argument of the reformers. The example to which I refer is as follows:—

"A leasehold house worth a net annual rent of £70, "held for a term of ninety-nine years at a ground rent of "£10 per annum, is purchased upon the 6 per cent. table "for £1,000.

Annual rent (after deducting the cost of repairs)	£70	0	0
Deduct ground rent	£10	0	0
Policy (£1,000) premium at 3/8 per cent. per annum ...	£1	16	0
(Or in one sum £57 14s. 2d.)			11 16 0
Net income			58 3 4

"The net income is equal to £5 16s. 4d. per cent. upon "the purchase-money, and the investor will get the "whole of his money back at the end of the lease."

Ground
rents for
lease-
holds less
than free-
hold chief
rents.

Moreover, it is well known to those who deal with land, that the ground rent charged for land let on building lease is always less than the ground rent charged for land let on the freehold chief rent system; simply because, in the former case, the interest of the tenant is terminable, and in the latter case it is not. The landlord, therefore, is willing to take into consideration the fact of his ultimate reversion in computing his present share of the income.

If building
lease unfair
to lessee,
mining
lease unfair
to lessor.

It may also be suggested that if the leasehold building system is unfair to the lessee, on the same grounds the mining lease system must be unfair to the lessor.

In short, the leasehold system is in effect the union of capital by the lessor and the lessee—the one contributing the land, the other the bricks, mortar, and labour.

The partnership lasts until the end of the lease, one partner taking a small but fixed sum annually as his share of the profits, but with an increasing interest in the capital, and the other partner taking the residue of the profits with a diminishing interest in the capital.

Effect of leasehold system is a partnership between landowner and builder.

It is sometimes alleged that there is a tendency to grant building leases of shorter terms than formerly. This is, however, one of those numerous allegations which spring from an elementary knowledge of the subject. Virgin building land is still let almost invariably for 99 years; but land which is situated well within the urban boundary, being far more valuable, one of two things must happen, viz., either the lease must be shorter, or the ground rent must be higher. But if the ground rent be higher, the proportion between it and the rack rent becomes small, and the consequent security for the ground rent less valuable. Hence it happens that in the reconstruction of old districts the leases are shorter than 99 years. In fact, in Birmingham, lately, I believe that building leases have been granted by the Corporation of less than 40 years, because the sites are so valuable that the rack rentals for offices and warehouses built on them will soon recoup the outlay on the buildings.

Alleged shortening of building leases explained.

So much for the fairness of the leasehold building system, which I have dwelt on at some length, because my experience is that it is the chief difficulty with that large class of persons whose chief ability is amiability, and who would probably like to enforce that quality on their neighbours by writ of attachment.

Let us now proceed to the examination of Messrs. Broadhurst and Reid's sixth, seventh, and ninth arguments, which are merely paraphrases of the allegation, that the leasehold building system gives too much power to the landlord, or, as they rhetorically state it, "confers on the

The leasehold system does not, as alleged, give undue authority to landlords.

landlord a degree of authority and a right of interference in regard to the homes of the people which is unendurable in a free country ! ”

Now, before we go into this question let us just consider this last phrase a little carefully. Interference in regard to the homes of the people unendurable in a free country sounds serious, but I have ever found that an advocate's verbal temperature bears an inverse ratio to the strength of his case ; and this sentence, calculated to make the blood of the worthy artisan voter “ boil in his veins,” as the saying goes, is an instance of this. For what possible degree of authority has a ground landlord beyond that possessed by any landlord ? As a matter of fact, his authority during the continuance of the lease is infinitely less ; and after the termination of the lease he becomes an ordinary landlord, and no more. Unless Messrs. Broadhurst and Reid are prepared to make every man his own freeholder, it is difficult to understand what they complain of.

Messrs.
Broadhurst
and Reid
supply their
own refuta-
tion.

But, curiously enough, Messrs. Broadhurst and Reid stultify their own argument, and at the same time prove mine by enumerating, on p. 71, amongst the evils of the leasehold system, the *want of control* by landowners who have granted long leases ! What are we to think of an agitation which can only be supported by the use of arguments mutually destructive !

The degree of authority of a landlord and his right of interference are undoubtedly in the exact ratio of the flimsiness of the tenant's interest. No landlord has such a degree of authority and interference as the landlord of property let on weekly tenancies, for if his tenant displeases him in any way whatsoever, he can turn him out by a week's notice. But the landlord of a yearly tenant cannot get rid of his tenant without consider-

able difficulty; and the landlord of a long leaseholder cannot get rid of him at all so long as he pays his rent and observes his covenants; and even if he does not observe the latter, he cannot always be ejected now, and in no case can he be ejected without expensive litigation.

The "degree of authority" and "right of interference" possessed by a ground landlord is, therefore, ridiculously small compared to that of a landlord of yearly, and still more of weekly tenants. Yet the abolition of long leases would not do away with yearly or weekly tenancies. For, if long lessees were converted into freeholders *they* would still, as they do now, let their property for short periods "to the people."

The people as a mass must always be subject to a landlord, and are never now subject to the ground lessor but to the lessee.

"The people," in fact, cannot afford to be the owners of their habitations. Here and there, no doubt—perhaps in one case in two or three thousand in country districts—a working man owns his own cottage. But such a person is a *rara avis in terris*. The great bulk of the people live under weekly or monthly tenancies, and the great bulk of the middle class live under yearly or three-yearly tenancies, and they would do so if long leaseholds had never been thought of. For, as Mr. Ryde puts it in his evidence before the Committee on Town Holdings, it is not the interest of most occupiers to be also the owners of their houses. "First of all, if a man follows an occupation the locality of which changes from time to time, it is a very convenient thing indeed for him to be able to live near his work. If he was the owner of his house, he would be to a certain extent tied to one locality, and that might be very inconvenient. Then any one of those men might, from various reasons, have their work changed. They might get promotion, or get better employment elsewhere. If they had to

“move from one district to another, and were living in
“their own freehold houses, they would have to sell their
“own freehold houses to get rid of them. They could
“not afford to have two houses, and it would be, perhaps,
“a disastrous thing for a man to have a house which he
“could not get rid of at short notice. I do not even
“think that it is limited even to artisans. Even among
“professional men I have seen instances of it. I have
“seen where a man has started, say, in the medical
“profession, and has bought his house. He has found,
“after a few years’ experience, that he is in a wrong
“position, and that if he would go into another part of
“the same parish he would be in a better position.”

Oddly enough, I myself have a case now in my chambers of precisely this character, where a medical man is trying to get rid of an agreement to buy his house, because he finds it does not suit him.

But in addition to interference with men’s “homes,” there is a point which I have reason to believe creates a great deal of discontent with the leasehold system, viz., the fact that on the termination of a lease of *trade* property (such as a shop or a manufactory) which has acquired a fictitious value to the occupier by reason of the goodwill of his trade, the landlord can, and in some cases does, raise the rent—not on the basis of the actual value of the property in the open market, but on the basis of its value to the occupier, having regard to the goodwill of his business, an increment of value in no way due to the landlord, nor one which the tenant was in any way bound to create. Now I am not going to say that such cases are not very hard. They are, I am assured, very rare, but that they do occasionally occur is beyond question. But the point is, whether if a property has a special value to a particular occupier, that gives him the

right to insist on a perpetual tenancy at a judicial rent, or in the alternative a right of compulsory purchase of the freehold? For that is the only way out of the difficulty.

It seems to be assumed by the philanthropic school of politicians that want of generosity ought to be made a criminal offence. If one trader wants an article of which another has the monopoly, I have never heard it said that the latter ought to supply it at a fair rate of profit, without regard to the buyer's necessity. In fact, trade is only buying in the cheapest market and selling in the dearest. We have heard of "cornering"; but it has yet to be suggested that because occasionally people are ruined by "a corner," every one should be *entitled* to buy everything he wants at a fair price.

Moreover, as I have shown before, a landlord under a seven, fourteen, or twenty-one years' lease would be just as capable of squeezing an increased rent out of a tenant with a valuable goodwill as the landlord of a long lease; and, therefore, unless you give *every occupier, however short his term may be, the right of compulsory purchase of the freehold, you cannot prevent a tradesman being occasionally victimised*. And the shorter the tradesman's tenancy, the more frequent is the landlord's opportunity for taxing his goodwill. The only difference would be that a rapacious landlord would effect a series of small confiscations at frequent intervals, to the constant worry of the tenant and landlord alike.

The system, in short, on which building land is developed has no effect whatever on the degree of authority and right of interference to which the occupiers may be subjected. Occupiers can only in the rarest instances be also owners; and unless they are owners, they will always be subject to the authority and right of interference of a landlord, and it does not matter a brass

farthing to them whether that landlord is a leaseholder or a freeholder.

The leasehold system does not, as alleged, deprive men of an incentive to industry.

We now come to Messrs. Broadhurst and Reid's last argument—viz., that the present system deprives men of that incentive to industry and thrift which is afforded by a prospect of acquiring a house really their own.

It would have been a novel argument, until within the last ten years, that one class of her Majesty's lieges should be expropriated as an incentive to the practice of thrift in another class; but *tempora mutantur*, and it is, alas! necessary nowadays to meet even so flimsy and immoral an argument as this.

The answer, then, is as follows.—(1) It is not to the interest of the working class to purchase their own houses, as has already been shown; (2) A working man who wishes to purchase a town holding can do so now, under the leasehold system, at a far lower rate than he could purchase a freehold house, even after providing for a sinking fund. Of course it is not absolutely his own, but it will probably outlast his time, and that of his children; (3) It is not to the interest of the community that town holdings should be split up into minute freeholds; (4) A working man who wishes to build himself a house on freehold land can do so now in hundreds of English towns; but, as a matter of fact, except in the rarest cases, he abstains from doing so. No doubt a working man sometimes buys small houses—not, however, with the sentimental object of having a “house really his own,” but as a speculative investment, and very generally he makes a very good thing out of it, by extracting the utmost farthing from his tenants. But such a man, who goes in for leaseholds, is merely the buyer of a business, which pays him a far larger

interest than a corresponding freehold would do, and which, therefore, is to him a far more desirable investment.

Before parting with the objections to long leaseholds, I think I ought to mention one which, although not formally avowed, is, I feel very sure, one of the main springs of the agitation, viz., the assumption that at the termination of the existing leases a few noblemen who own some of the large London estates will receive a great accession of wealth by coming into possession of what is known as the unearned increment. This assumption is, however, far from correct ; for the necessary reconstruction referred to at page 24 will swallow up the greater part of the increased value. It is, too, forgotten that these gentlemen have, during the 99 years for which existing leases were granted, been deprived of this same unearned increment, which has been going into the pockets of their lessees, and that if, instead of granting these long leases at small ground rents, they had kept the property in hand, they would have now been possessed of the fortunes which have instead enriched the Frekes, the Cubitts, and the Seth Smiths. The profits, of which they have deprived themselves, may fairly be set off against the improved value of their estates at the end of the leases. Moreover, I have shown that it is not unfair to the lessee or his assigns. If it be answered that it is unfair to the public, although I entirely dissent from that proposition, I need only say that Leasehold Enfranchisement is not the proper remedy, for it will only benefit the person who has purchased from the lessees.

And now, having disposed of Messrs. Broadhurst and Reid, let us consider a few positive reasons why the present freedom should not be curtailed.

The "Fons
et origo
malorum."

II.—REASONS AGAINST THE BILL STATED.

Leasehold
Enfranchisement
would cripple the
building
trade, raise
rents, and
deteriorate
dwellings.

In the first place, then, if Leasehold Enfranchisement became law, the leasehold building system would be discouraged to such an extent as to be practically extinguished. No owner of land would let it *en bloc* at a low ground rent, when he might be called on to sell it piecemeal to the various assignees of the builder at judicial prices, ascertained by a series of expensive litigations. He would, therefore, not be likely to let on building lease at all.

On the other hand, he would not be at all likely to engage in building speculations, for as Mr. Ryde said in his evidence (7850)—as a rule, landowners have neither the capital, skill, or knowledge requisite to cover their land with buildings. “The system which has grown up and which has now become almost perfect, almost amounts to a partnership between the owner of the land and the builder who is going to develop it.”

Then would the building speculator buy it? He might do so, but if he did, the enormous capital which would have to be locked up in the purchase of the site at 3 per cent. would so greatly cripple him, that unless a man of great capital, he could only carry on a fraction of the operations which are now open to him; and his profits would of course be immensely curtailed, so much of his capital only returning a low rate of interest.

The result would be—

(1) The building trade would suffer, and many thousands of men would join the ranks of the unemployed.

(2) The supply of houses would not be so great, and any system which facilitates the supply of houses must benefit tenants as a class, and as Mr. Ryde puts it (7,861), "must be especially for the benefit of operatives: I mean it must be beneficial to them that there is a sufficient number of houses which they can inhabit; and *if there were an insufficient number, of course a higher rent would be demanded of them than they could afford to pay.* It does tend to lower rents undoubtedly; but it affords facilities for getting land covered which is suitable for buildings, and which no other system, in my opinion, affords to the same extent."

(3) The supply of houses being restricted, the demand would exceed the supply; and the want of competition would necessarily decrease the quality of the houses built.

Another reason for rejecting leasehold enfranchisement is the gross injustice which it would inflict on landlords. As I have already shown, leasehold estates are developed *en bloc*, and at the end of the lease return, in a large number of cases in London, to the landlord *en bloc*.

Would inflict grievous injustice on landlords by not giving compensation for severance.

By that time the existing houses have ceased to come up to modern requirements, consequently the landlord almost invariably clears away the whole of the buildings, and lets the sites once more on a new building agreement.

But under Leasehold Enfranchisement any one of the 500 or 600 tenants might turn his house into freehold at a judicial price ascertained on the market value of the freehold of that one house, without compensation for severance. The result would be a loss to the landlord by reason of the depreciation so caused to the rest of his property, which is not susceptible of valuation, but which

might easily amount to many hundred times the enfranchisement money. For he would lose the power of dealing with his estate *en bloc*, and would receive in return the price which a willing vendor might be presumed able to arrange with a willing purchaser—the price, that is to say, which would be given to a vendor who had no adjoining property. It is not too much to say (I am particularly desirous of not overstating the case for the leasehold system) that no more cynical or dishonest proposition for deliberate robbery of private proprietors has ever been seriously enunciated.

If compensation for severance were given, it would render act inoperative.

The promoters of the Bill are well aware that compensation for severance would almost always far exceed the market value of the reversion if sold by a willing vendor, and hence their extreme anxiety to limit the compensation to that market value. If they passed their Bill with an amendment giving the lessor the right to full compensation for severance, they know that their clients would feel—

“*Alterâ manu fert lapidem, panem ostentat alterâ.*”

For the price which would have to be paid for enfranchisement would be simply prohibitive. I say, therefore, that either a gross robbery of the lessors must be sanctioned, or the proposed right of enfranchisement made inoperative. I leave my enfranchising friends to impale themselves on whichever horn of this dilemma they please.

The gross injustice of assessing compensation on the value of the ground rent would be accentuated by a fact of which the godfathers of the Bill appear never to have heard, but which is well known to real property lawyers, and to all who have to do with building leases.

The fact to which I refer is the universal custom of distributing the sum of the ground rent payable for the entire estate, *unequally* between the several houses. For instance, if £100 per annum were the ground rent specified in the building agreement for an estate on which fifty houses were to be erected, each house being of the same actual value, the ground rent would not be, as might be naturally expected, £2 per house, but some houses might have a £5 ground rent, others a 5s. rent, and so on.* The ground rent, therefore, would afford no just criterion of the value of the lessee's interest, and any system of purchase based on the ground rent would be most fallacious.

Ground rents not equally distributed over an estate.

But in addition to the injustice which would be inflicted on the landlord who wishes to preserve his estate intact, a more widespread injury would be suffered by the prudent and thrifty, who invest their savings in purchasing ground rents. Trustees, professional men, tradesmen, insurance companies, and other persons and corporations who desire a secure investment, paying a small but invariable rate of interest, with a capital increasing in value, are large investors in ground rents; and these people collectively form a very numerous class, exceeding in number the great ground landlords many thousands of times. Any depreciation of the property of this class, deliberately inflicted by Parliament, would have the worst effect, and would not only inflict grievous

Injustice to the small investor of ground rents.

* The reason for this apparently eccentric procedure is as follows:—The practice is to secure the total rent payable to the landowner as early as possible, by apportioning comparatively high rents to the houses first built; the consequence of course being that, as the agreement is gradually worked out, very low or even nominal ground rents are reserved in the leases of the houses last built; and thus two identical houses on the same estate are often subject to widely-different ground rents.

injustice, but would in numerous instances cause real hardship and even ruin. That such depreciation would be caused if the proposed Bill were to pass is certain from the following considerations. In the first place, an investment of which the investor can be compulsorily deprived at any time on payment of the market price, ascertained by a tiresome litigation, cannot in the nature of things be of the same value as an investment which cannot be disturbed, and which increases in capital value *de anno in annum* as the expiration of the lease approaches. Hence the market price of ground rents *must* fall as a necessary consequence of such legislation. The Act, therefore, which gives the lessee the right to buy compulsorily at the market price, will itself reduce that market price to a large extent; and not only would the owners of ground rents be compulsorily expropriated, but the very fact of the liability to expropriation will lower the compensation which is to be given by the expropriator.

A freeholder will, therefore, not only have to part with his investments bit by bit, but will necessarily be bound to accept less purchase money than he would have been able to get in the open market if the proposed Bill had not been passed. The Bill would, therefore, inflict a twofold wrong. It would first depreciate a man's property, and then hand it over to another at the depreciated price.

Moreover, the vexation and expense incident to the enfranchisement of ground rents would be a heavy burden to the holders of them. For on every enfranchisement there would be the litigation in the County Court: and although the owner of the ground rent would get his costs from the enfranchiser, he would not get "solicitor and client costs," but only taxed costs between "party and

party," and the costs of his expert witnesses might be extremely heavy. In addition to this, only *one set of costs* is to be allowed by the Bill to the whole of the persons interested in the reversion, and, as it is often mortgaged, and as there are frequently several leasehold interests between the occupying lessee and the ground landlord, it is not difficult to see that "one set of costs" would not recoup the expenses of all parties so interested.

If, too, each householder is to be allowed to enfranchise, a person who has invested in the purchase of the ground rent of a block of houses would find his investment being repaid in dribblets, with the consequent trouble and expense of having to re-invest small sums at different times.

An even more serious objection occurs where a freehold reversioner has mortgaged the property ; for in that case the mortgagee may find his security compulsorily enfranchised, at a price which will not realise what he has advanced ; and if the mortgage has been made on a block of houses he will be repaid his mortgage, whether he likes it or not, in small sums, as each house is separately enfranchised, with all the consequent annoyance of having to find new securities for trifling amounts. Moreover a mortgagee is now entitled to six months' notice of an intention to pay him off. Is he to be deprived of this right, or is the unfortunate freeholder to be obliged to pay him six months' interest because the lessee desires to enfranchise ? What person would, under such circumstances, advance money on mortgage of freehold ground rents ?

In short, it is not too much to say that if the proposed Bill were passed, freehold ground rents, instead of being the best of investments, would become almost unmarketable, and a large number of respectable and thrifty persons, and a still larger number of widows and children

dependent on trust funds, would be reduced to penury. And for what end? Simply in order that a person who has hired a plot of land under a distinct promise to return it to the owner may gratify a dishonest desire to break his contract and possess a "home really his own!"

Would
discourage
artisans'
dwellings.

Another reason which may, perhaps, have more weight with those faddists who ignore the interest of all classes except the artisan class, is that the leasehold tenure makes possible the erection of what we now know *par excellence* as "artisans' dwellings," by which I mean model dwellings for the artisan class. In this matter I am not speaking theoretically, but on information supplied by gentlemen who have the management of the largest metropolitan associations for building artisans' dwellings. Their unanimous opinion is, that they can only build *en bloc*, and that if they had to buy out a multiplicity of small freeholders, in order to secure a site, they could not possibly do so.

Leasehold
system en-
sures good
wide streets
and open
spaces.

The leasehold system also ensures that estates shall be well laid out with good width of streets and air spaces. A freehold estate is almost invariably overcrowded because the builder is unrestricted, and having had to lock up a large capital in the site, he naturally objects to waste any part of that site in unremunerative streets, squares, or even gardens. Preston (which is a freehold town) is an instance of this.

Leasehold
system
allows of
great public
improve-
ments being
made with-
out expense
to rate-
payers.

Again, the leasehold system permits of great public improvements being carried out at no expense to the ratepayers. For when the leases fall in the freeholder can, and almost always does, clear the whole estate, and re-let the site on a new building contract, making new streets, squares, or other modern improvements.

This is no theoretical idea, but has been actually put into practice on many occasions in London and else-

where. On the other hand, in one large provincial town with which I am acquainted, where the leasehold building system is unknown, over £250,000 had to be expended out of the rates in order to buy out a large number of freehold owners of insanitary property under the Artisans' Dwellings' Act.

Another very important incident of the leasehold building system is, that it ensures the regulation of every part of an estate in the interest of the whole, by providing for the easy and certain enforcement of what one knows as restrictive covenants.

Covenants of lease prevent tenants being a nuisance to one another.

No reasonable man would dare to buy a plot of highly-priced ground, and build a fine house on it, if the adjoining land might be sold for the erection of inferior dwellings, or possibly a manufactory; but under the leasehold system persons build with confidence, because they know that nothing will be permitted which could create annoyance, or depreciate the value of houses already erected.

If it be objected that such covenants might be used, and, in fact, are used, with regard to freehold land, I answer that restrictive covenants are practically inoperative with regard to freehold land; for they are made with the landlord; and when he has sold all his land to various builders, he obviously has no interest in enforcing them. Moreover, the legal difficulties are so great as to prove almost insuperable; whereas a lessor of a leasehold estate has merely to threaten a forfeiture for breach of covenant, and the nuisance is at once stayed.

The advocates of Leasehold Enfranchisement not infrequently remind us that other European cities of great beauty have been built on the freehold system. These gentlemen, however, quite forget to add, that (as pointed

out by Mr. Woodward in a letter to the *Times*) in such cities a bureaucratic control exists, to which the restrictions exercised by London freeholders are but milk and water.

Leaseholds afford a desirable investment.

Another argument in favour of leaseholds is, that they suit the investing public, by providing some with a low rate of interest and perfect security (ground rents), and others with a high rate of interest and a terminable property.

Leasehold system the result of the free play of economic forces.

Lastly the leasehold building system is the result of free right of contract. It is the outcome of custom and not of law, landlords are unable to impose on builders tenures which the latter may dislike. In some neighbourhoods where land is cheap, builders will not look at leaseholds, and consequently in such places leaseholds are unknown.

In other neighbourhoods where land is dear, the freehold chief rent system, or what is now practically equivalent, the 999 years leases, prevail. In other places again, where land is dearer still (as, for instance, in the great towns of London and Birmingham), the leasehold system seems to be forcing the other systems out of the market. *In short, it is the landowners who have to meet the public demand, and not the public who have to knuckle under to the landlords.* The public demand is determined by a multitude of factors (as, for instance, the value of land, the purpose for which it is required, local prejudices and customs, and so on), but however formed, the landowners must meet it.

Criticism of details of Mr. Broadhurst's Bill.

I have now concluded the examination of the question, "of the expediency of giving to leaseholders facilities for the purchase of the fee-simple of their property," but before concluding I would call attention to a few shortcomings in the details of Mr. Broadhurst's Bill.

In the first place, although it gives lessees power to purchase the freehold, it gives no power to the freeholder either to compel such a purchase or himself to purchase the leasehold interest. It inaugurates, in fact, a statutory game of "heads I win and tails you lose" between tenant and landlord. Surely, if such a Bill were ever passed, it ought at least to be provided (as it is provided in the Copyhold Enfranchisement Acts) that the landlord shall have an equal right to enforce enfranchisement by the tenant as the tenant may have to enforce enfranchisement on the landlord.

Again, the tribunal (the County Court) which is to assess the purchase-money is most objectionable. A County Court judge may be, and doubtless is, a very competent legal tribunal for settling disputes of law and fact, but no more incompetent tribunal could have been chosen for assessing land values. That is the business of surveyors, and not of lawyers, and the question of compensation ought clearly to be referred to two competent practical land valuers or their umpire.

Again, the Act provides for the purchase by the *lessee* of the freehold, but does not define the term *lessee*. Now it is almost invariably the case that there are between the actual occupier and the freeholder several intermediate lessees and sub-lessees. Which of these is to be entitled to enfranchise? Only the occupier? The Bill does not say so; if not, then the Act distinctly favours the aggrandisement of middlemen, where the actual occupier has a term of less than 20 years.

But, in truth, the draft Bill is too crude, and too hastily drafted, to be seriously criticised.

To sum up, I object to the principle of Mr. Broadhurst's Bill on the following grounds:—

(1) That the reasons adduced by its supporters are

Ought to give lessor reciprocal right of compelling enfranchisement, as in case of copyholds.

County Court not a fit tribunal.

No provision for intermediate interests.

Summary of case for the opponents of the Bill.

untenable, and that the onus lies on them of conclusively proving the case for a change so vast and so contrary to all established principles of legislation in England.

(2) That it is cruelly unjust to landlords, particularly in not providing for compensation for severance; but that if that were conceded, it would make the Bill unworkable.

(3) That the leasehold system has many and great advantages, which are not possessed by the freehold system: notably the facilities afforded for public improvements at no cost to the ratepayers, and for the erection of artisans' model dwellings, and ensures wider streets and large gardens, &c.

(4) That the proposed Bill would seriously cripple the building trade, a branch of industry already much depressed, and would produce a scarcity of houses and an increase of rents.

(5) Last, but not least, that the present practice of developing land ripe for building, differing widely as it does in different localities, according to the wants and wishes of the inhabitants, and being the result of agreement between men of business competent to deal with one another, ought not to be rashly restricted by amateur and immature legislation.

THE END.

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